SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Hayden | Analyst: Roger Lackey | Bill Number: SB 1710

Related Bills: See Prior Analysis | Telephone: 845-3627 | Amended Date: 05-31-00

Attorney: Patrick Kusiak | Sponsor:

SUBJECT: 2000 Public Subsidies and Public Benefits Act/Taxpayers Report Business Tax Expenditure Information & FTB Collect & Report Info to Legislature

_____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _________.

_____ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

__X__ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended April 25, 2000.

_____ FURTHER AMENDMENTS NECESSARY.

_____ DEPARTMENT POSITION CHANGED TO _________________________.

__X__ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 25, 2000, STILL APPLIES.

_____ OTHER - See comments below.

SUMMARY OF BILL

This bill would create the 2000 Public Subsidies and Public Benefits Act. It would require certain legislative entities to review the economic and employment impact of state business tax expenditures and all other public subsidies no later than December 31, 2005.

Further, it would require taxpayers to provide the Franchise Tax Board (FTB) specific information regarding the taxpayer's "business tax expenditures" and "public subsidies" (as defined).

This analysis will address the bill only to the extent it impacts the department.

SUMMARY OF AMENDMENT

The May 31, 2000, amendments deleted the Pension Fund Investment, Treasurer's Office, Other State Entities, and Redevelopment Agencies provisions from the bill.

The May 22, 2000, amendments added language providing that the taxpayer would report the required information to the FTB in a form and manner that may be disclosed to the public.

The amendments eliminated the reporting of any violations of environmental laws, but expanded the reporting of violations of employment laws to include any citation that has become final for violating state and federal labor laws governing minimum wage and overtime, child labor, occupational safety and health, or workers compensation.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	__X__ PENDING

Legislative Director	Date
Johnnie Lou Rosas	6/7/00

The May 22, 2000, amendments also added language that would have required any business that receives a subsidy from a redevelopment agency to submit to the FTB, as a condition of receiving the subsidy, quantifiable goals and objectives concerning job creation and economic benefit. The information would have been reported to the FTB in a form and manner may be disclosed to the public. The May 31, 2000, amendments deleted this provision.

The amendments made other minor changes that would not impact the department.

The May 22,2000, and May 31, 2000, amendments did not resolve the concerns addressed in the department's analysis of the bill as amended April 25, 2000. The concerns have been included.

Except for the discussion in this analysis, the department's analysis of SB 1710 as amended April 25, 2000, still applies.

Implementation Considerations

This bill would provide that the Legislative Analyst's Office (LAO), in consultation with the Senate and Assembly Revenue and Taxation Committees and the Legislature, review each business tax expenditure. However, the information required to be reported by the taxpayer to the FTB (number of full-time employees, real property and IRC Section 1245 property, and violations of employment law) would not be sufficient to provide the LAO the necessary information to review each business tax expenditure. If it is intended that tax return information be used to review business tax expenditures, the time required for the department to compile statistics may make the review by the LAO and the Legislature of each existing "business tax expenditure" by December 31, 2005, difficult to accomplish.

State tax law contains a number of distinctions between types of taxpayers. For example, the minimum franchise tax for certain corporations involved in gold or quicksilver mining is $25, rather than $800. Limited liability companies are required to pay an $800 annual tax and a fee, while limited liability partnerships pay only an $800 annual tax. S Corporations are not subject to the alternative minimum tax and pay a lower franchise tax rate than other corporations. Individuals are taxed at graduated rates ranging from 1% to 9.3%. Many organizations, such as churches and nonprofit charities, are exempt from taxation, except in limited cases when nonprofit organizations have unrelated business taxable income. It is unclear whether these and the numerous other differences in tax treatment would be considered "special tax rates" or "other preferences."

Estimating direct employment generated and economic benefits for specified communities is outside the scope of the FTB's expertise. Moreover, it is unclear how the department would verify the accuracy of a taxpayer's reporting of the number of full-time employees or any violations of employment laws. While taxpayers would be required to report specific information to FTB, the bill provides no penalty if taxpayers fail to comply with the reporting requirements.

The reporting requirement under the public subsidy portion of the bill would be difficult to implement within the department's normal systems. Taxpayers would be reporting information to the department about public subsidies even though the department does not administer these subsidies and does not have a mechanism to collect or verify such information.

Also, the wording in the bill requires taxpayers to make estimates regarding employment, economic benefits, and labor violations. Such estimates may be outside the expertise of most taxpayers. The department is directed to make similar estimates under the business tax expenditures portion of the bill. Also, the public subsidy portion does not specify that the department is required to provide the information to the LAO for its review.

BOARD POSITION

Pending.